

RESOLUTION NO 2010-04

**COCONINO COUNTY POLICY REGARDING CLAIMS REVIEW AND
SETTLEMENT AUTHORITY**

WHEREAS, the County Board of Supervisors has authority pursuant to A.R.S. 11-251(14) to direct and control the prosecution and defense of all actions to which the County is a party, and compromise them;

WHEREAS, in 1985, the Board of Supervisors established the Executive Safety and Insurance Claims Committee, whose initial purpose was to: review vehicle accidents; evaluate claims made against the county; provide recommendations to the Board of Supervisors regarding settlement or denial of claims; evaluate workers compensation issues; address accidents and equipment abuse resulting from employee negligence; and to recommend to department directors internal policies with respect to risk management including corrective measures, disciplinary action, training, or equipment modification;

WHEREAS, by written policy adopted in 1997, the Board of Supervisors delegated settlement authority to the Executive Safety Insurance Claims Committee to evaluate and settle any claim up to \$10,000;

WHEREAS, the number and legal complexity of claims filed against the County pursuant to A.R.S. 12-821.01 has increased and the court's interpretations of the notice of claims statute, governmental immunity, and affirmative defenses have been the subject of much litigation, resulting in the need for increased legal scrutiny of most claims;

WHEREAS, the possibility of litigation occurring after a claim has been denied or a compromise rejected requires that staff discussions about the facts and law of each claim be held confidential and under the attorney-client privilege;

NOW THEREFORE, be it resolved that the following procedure shall be in effect and shall replace any prior procedures, policies, or resolutions adopted by the Board of Supervisors with regard to the review and settlement of claims against the County:

1. Service of Notice of Claims

All claims against Coconino County, its elected officials, appointed officials, employees, boards, and commissions, shall be served on the Clerk of the Board. Any attempted service on any County official or employee other than the Clerk shall be refused and the serving party shall be directed to deliver or send the claim to the Clerk.

2. Procedure for Screening Claims

- a. Upon receipt of a claim, the Clerk shall notify the County Manager (or deputy), County Attorney (or deputy), and the Risk Manager. These individuals shall comprise the Claims Committee for Coconino County.
- b. The Claims Committee will convene monthly to review claims received by the Clerk's office and determine whether the claim should be evaluated by the Executive Safety Committee, a claims adjuster, or legal counsel.
- c. The Risk Manager will report to the County's insurance carrier any claim which might exceed half of the County's Self Insured Retention amount. Risk Management shall maintain files which include a copy of claim and correspondence regarding the claim which is not subject to attorney/client privilege. Risk Management will also maintain the loss report data.
- d. All notes, written materials related to the claim, photographs or other media, shall be kept in the custody of the attorney and held as confidential and privileged.

3. Executive Safety Committee

- a. The Executive Safety Committee (ESC) shall be comprised of the Risk Manager, a Deputy County Attorney, the Public Works Director or designee, the Sheriff or designee, the Health or Community Services Department Director or designee, a Deputy County Manager, and the Facilities Director or designee.
- b. ESC will review and evaluate responsibility for vehicle accidents and/or property damage claims of \$10,000 or less and any other items referred to them for review and evaluation by the Claims Committee as noted above.
- c. ESC will convene at least monthly. The employee(s) involved, together with the employee's supervisor(s) will be interviewed by ESC when damage repair costs exceed \$1000 or a claim is made by a third party for damage compensation. Employees will also be interviewed when there is damage to County equipment or vehicles that appears to be the result of abuse, neglect or carelessness, or a request is made by the supervisor to invite the employee to ESC. The Risk Manager, or designee, will notify the employees and supervisors of the time and date of the meeting.
- d. The purpose of the ESC interview and evaluation is to ascertain the cause of accidents or damage, determine how preventative measures might be applied, encourage through employee involvement an increased level of responsibility and safety in the performance of work for the county, develop written recommendations for the department head on corrective measures, disciplinary action, additional training, and/or modification of equipment.
- e. Based on the recommendation of the ESC, the Risk Manager is delegated authority to settle property damage and bodily injury claims for amounts up to \$10,000 per claim.

4. Review and Evaluation of Claims in Excess of \$10,000 or Claims for Other Than Vehicle Accidents and Property Damage

- a. Claims Adjuster. Claims for property damage and personal injury may be referred to the claims adjuster retained by the County for additional investigation and evaluation prior to review by the Claims Committee.
- b. Claims Committee. The Claims Committee shall convene monthly to review claims which have been served on the Clerk. The Claims Committee shall review all claims in excess of \$10,000 or claims for other than vehicle accidents or property damage, and evaluate the facts and circumstances of the case in light of applicable law in consultation with the County Attorney (or designated deputy). It may be necessary to obtain statements from employees who are involved in the claim.
- c. The Claims Committee is hereby delegated authority to deny any claim and to settle or compromise a claim in an amount of up to \$30,000 per claim.
- d. Upon denial of a claim, a letter explaining the denial may be sent by the County Attorney at the discretion of the Claims Committee. In some circumstances, no response may be needed and the claim will be deemed denied after sixty (60) days from service of the claim.
- e. All notes, correspondence, written materials, and media shall be kept in the custody of the attorney as confidential and privileged.
- f. The Risk Manager will report to the County's insurance carrier any claim which might exceed half of the County's Self Insured Retention amount. Risk Management shall maintain files which include a copy of claim and correspondence regarding the claim which is not subject to attorney/client privilege. Risk Management will also maintain the loss report data.

5. Claims in excess of \$30,000


- a. Claims which cannot be settled for an amount of \$30,000 or less shall be referred to the Board of Supervisors for direction to staff, legal counsel, or decision.
- b. In most cases, the claims will be presented to the Board of Supervisors in executive session to hear legal advice from the attorney or to consider the Board's position in contemplated litigation or settlement discussions conducted in order to avoid or resolve litigation. The department director of the affected department will be given the option to attend the board meeting at which the claim is discussed.
- c. All written materials and media presented to the board during executive session shall be kept confidential pursuant to the Open Meeting Law.
- d. The Board of Supervisors may direct counsel to deny or negotiate the claim, or may defer board action on the claim until a duly noticed public meeting can be held. All decisions of the Board are final. Any further relief sought by the claimant must comply with A.R.S. 12-821 by filing a lawsuit in Superior Court.
- e. A report outlining claims activity will be submitted semi-annually to the Board of Supervisors for their review.

DATED THIS 19TH DAY OF JANUARY, 2010.


AYES: 5

NOES: ☐
ABSENT: ☐

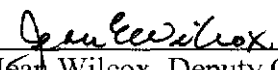
COCONINO COUNTY BOARD OF SUPERVISORS


Elizabeth C. Archuleta, Chair

ATTEST:


Wendy Escoffier, Clerk of the Board

APPROVED AS TO FORM:


Jean Wilcox, Deputy County Attorney

